



National Aeronautics and
Space Administration
Washington, DC 20546

Procurement Notice

PN 04-43
September 3, 2009

EXCEPTION TO THE FIVE-YEAR PERIOD OF PERFORMANCE LIMITATION

BACKGROUND: This PN revises the NASA FAR Supplement (NFS) to make the following changes to NFS 1817: (1) Replace Office Code HS with the name of the responsible organization, namely: Program Operations Division through-out NFS 1817; (2) Allow for an exception to the five-year period of performance for end-item systems or hardware development contracts in NFS 1817.2; and (3) Require additional information to be addressed when requesting a deviation from this limitation. The limitation on the length of a contract in NFS 1817.2 is designed to permit more industry participation by maximizing opportunities for competition, and to recognize the uncertainties associated with pricing requirements beyond the five year limitation. The purpose for this PN is to establish new policy that the limitation in NFS 1817.204 does not apply to contracts for end-item systems or hardware development contracts involving design, development, test, and evaluation (DDT&E) efforts when the period of performance exceeds five years. Consequently, an exemption to the five-year period of performance limitation on contracts is being added to the NFS allowing the length of DDT&E contracts to reflect the time needed to complete system development or hardware production efforts, namely Phases A through C/D. Project life cycles Phase A through Phase F are described in NPR 7120.5 available in NASA's On-line Directives Information System (NODIS).

ACQUISITIONS AFFECTED BY CHANGES: This requirement is applicable to all acquisitions issued after the effective date of this PN.

ACTION REQUIRED BY CONTRACTING OFFICERS: Contracting personnel shall consider this five-year period of performance limitation during acquisition planning.

CLAUSE CHANGES: None.

PARTS AFFECTED: Part 1817.

REPLACEMENT PAGES: You may use the enclosed pages to replace Part 1817 of the NFS.

TYPE OF RULE AND PUBLICATION DATE: These changes do not have a significant affect beyond the internal operating procedures of NASA and do not have a significant cost or

administrative impact on contractors or offerors, and therefore do not require codification in the Code of Federal Regulations (CFR) or publication for public comment.

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Enclosures

DISTRIBUTION LIST:
PN List

PART 1817
SPECIAL CONTRACTING METHODS

TABLE OF CONTENTS

SUBPART 1817.1	MULTIYEAR CONTRACTING
1817.105	Policy.
1817.105-1	Uses.
SUBPART 1817.2	OPTIONS
1817.200	Scope of subpart.
1817.203	Solicitations.
1817.204	Contracts.
1817.206	Evaluation.
1817.207	Exercise of options.
1817.207-70	Analysis to support exercise of options.
1817.208	Solicitation provisions and contract clauses.
SUBPART 1817.4	LEADER COMPANY CONTRACTING
1817.401	General.
SUBPART 1817.5	INTERAGENCY ACQUISITIONS UNDER THE ECONOMY ACT
1817.500	Scope of subpart.
SUBPART 1817.70	INTERAGENCY ACQUISITIONS
1817.7000	Scope of subpart.
1817.7001	Authorization and policy.
1817.7002	Determinations and findings requirements.
1817.7003	Ordering Procedures.
1817.7004	Acquisitions with Military Departments.
1817.7004-1	Authorization and policy.
1817.7004-2	NASA-Interagency Purchase Request and acceptance.
1817.7004-3	Acceptance by Military Department.
1817.7004-4	Changes in estimated total prices.
1817.7004-5	Payments.
1817.7004-6	Contract clause.
1817.7005	Acquisitions with Civilian Agencies.
1817.7005-1	Authorization and policy.
1817.7005-2	NASA-Interagency Purchase Request and acceptance.
1817.7005-3	Contract clause.
SUBPART 1817.71	EXCHANGE OR SALE OF PERSONAL PROPERTY
1817.7101	Policy.
SUBPART 1817.73	PHASED ACQUISITION
1817.7300	Definitions.
1817.7301	Down-selections in phased acquisitions.
1817.7301-1	Pre-solicitation planning.
1817.7301-2	Evaluation factors.

1817.7301-3	Down-selection milestones.
1817.7301-4	Synopsis.
1817.7301-5	Progressive competition.
1817.7302	Contract clauses.

PART 1817

SPECIAL CONTRACTING METHODS

Subpart 1817.1--Multiyear Contracting

1817.105 Policy.

1817.105-1 Uses.

(b) The Assistant Administrator for Procurement, Program Operations Division, is the approval authority for the use of the multiyear contracting technique. Requests for approval shall be signed by the procurement officer and shall include a description of the acquisition, identification of anticipated contract costs and funding, and a determination, with supporting rationale, that each of the criteria in FAR 17.105-1(b) is met by the proposed use of multiyear contracting.

Subpart 1817.2--Options

1817.200 Scope of subpart.

FAR Subpart 17.2 applies to all NASA contracts.

1817.203 Solicitations.

(g)(2) The procurement officer is authorized to approve option quantities greater than 50 percent.

1817.204 Contracts.

(e)(1) The 5-year limitation (basic plus option periods) applies to all NASA contracts regardless of type and other procurement award instruments, except as stated in (e)(2). This includes agreements (e.g. basic ordering agreements, blanket purchase agreements), interagency acquisitions, and orders placed under agreements or awarded under a Federal Supply Schedule or other indefinite delivery/indefinite quantity contracts awarded by other agencies. See 1816.505-71 for limitations on the ordering period of task and delivery order contracts.

(2) The 5-year limitation in paragraph (e)(1) does not apply to acquisitions for the design, development, test, and evaluation (DDT&E) of end-item systems development or hardware production. The period of performance for DDT&E should be consistent with the time needed to complete system development or hardware production efforts to perform Phase A (concept studies, concept & technology development phase), Phase B (preliminary design & detailed engineering/technology completion phase), Phase C (final design, components/systems fabrication and testing phase), and Phase D (system assembly, integration, testing, and launch phase). The 5-year limitation in paragraph (e)(1) applies to acquisitions involving Phase E (systems and mission operations, sustaining engineering, maintenance support), and Phase F (close-out/decommissioning efforts). Contracting officers shall procure Phase E and F efforts separately to allow for the maximum number of industry opportunities for competition so long as awards to different contractors will not pose critical integration risks to NASA. If Phase A through F are acquired in a combined acquisition and the period of performance is expected to exceed 5 years then a request for deviation shall be required in accordance with NFS 1817.2(e)(4).

(3) When the performance period exceeds 5 years (exclusive of options), the program/project office and the contracting officer shall review the requirement at the mid-point of the performance period to ensure that the products or services continue to fulfill NASA's mission needs and that the procurement award instrument continues to provide the best means of satisfying the requirement.

(4) Requests for deviations from the 5-year limitation policy shall be sent to the Assistant Administrator for Procurement, Program Operations Division, and shall include justification for exceeding five years. At a minimum, the justification shall discuss planned future assessment of continued performance either prior to exercise of options or at the mid-term of a basic contract with no options. Evidence shall also be included showing that the extended years can be reasonably priced. The justification shall explain why longer than a 5-year period of performance is the most prudent business course of action. The justification shall also address how the longer period of performance will result in obtaining the best value for the Government if the supply or service is readily available in the open market by considering the current market and the uncertainties in future market conditions and by explaining why competition, which acts as a primary guarantor of best value to the Government, is not operative to the acquisition.

1817.206 Evaluation.

(b)(i) The procurement officer is the approval authority for determinations by the contracting officer not to evaluate offers for any option quantities or periods.

(ii) Unless a determination has been approved under 1817.206(b)(i), the selection statement for each acquisition involving an option shall address the source selection authority's consideration of the option as part of the initial competition.

1817.207 Exercise of options.

(c)(2) In addition to determining the option fulfills an existing need, the contracting officer shall determine that there is no change in the scope of the option requirements.

(f) Options under cost type contracts shall contain an estimated cost for the option period(s).

(f)(2) Use of the provision (or formula) for determining the price of a fixed price option requires advance approval by the Assistant Administrator for Procurement, Program Operations Division

(f)(3)(ii) Use of a formula to determine the fee of an option in a cost-type contract requires advance approval of the Assistant Administrator for Procurement, Program Operations Division. The formula shall preclude the contractor from increasing costs for the purpose of earning additional fee.

1817.207-70 Analysis to support exercise of options.

(a) The contracting officer's determination that exercise of the option is the most advantageous method of fulfilling the requirement shall be based on input and information from the requiring organization. The contracting officer and the requiring organization shall ensure that analysis sufficient to support the determination that option exercise is the most advantageous method is completed in advance of providing the notice to the contractor required by FAR 17.207(a). Sufficient time shall remain in the performance period to allow the acquisition team to pursue appropriate alternative approaches with minimal impact to the program or project in terms of technical, cost, or schedule risk should the analysis conclude that the best programmatic path is not exercising the option.

(b) The analysis required to support the option exercise determination must include consideration of other factors in addition to price. In addition to the other factors contained in FAR 17.207(e), the determination to exercise the option should include, but is not limited to, consideration of --

(1) The contractor's performance in satisfying contract requirements, for example, receiving positive performance ratings (see subpart 1842.15) and the contractor's level of success in implementing and maintaining small business programs (including mentoring arrangements), which were evaluated as part of the source selection process and incorporated into the awarded contract; and

(2) The results of market research activities to identify any technical, engineering or scientific advances that offer programmatic benefits or performance improvements beyond those that are contractually available under the option to be exercised.

1817.208 Solicitation provisions and contract clauses.

(c)(3) The contracting officer shall insert a provision substantially the same as FAR 52.217-5 in cost reimbursement contracts when the other conditions of FAR 17.208(c) are met.

Subpart 1817.4--Leader Company Contracting

1817.401 General.

It is NASA policy not to use the leader company contracting technique.

Subpart 1817.5--Interagency Acquisitions Under the Economy Act

1817.500 Scope of subpart.

(b) See 1817.70.

Subpart 1817.70 –Interagency Acquisitions

1817.7000 Scope of subpart.

This subpart contains policies and procedures for the acquisition of supplies or services by NASA from or through Military Departments (see 1817.7004) and Civilian Agencies (see 1817.7005).

1817.7001 Authorization and policy.

(a) The National Aeronautics and Space Act of 1958 (42 U.S.C. 2473 et seq.) applies to NASA interagency acquisitions except those acquisitions for the NASA Office of Inspector General acquired under the authority of the Inspector General Act of 1978 (5 U.S.C. APPENDIX Sec.6(a)(9)). NASA has elected to conform its implementation of the National Aeronautics and Space Act of 1958 and the Inspector General Act of 1978 to the requirements of the Economy Act (see FAR 17.5).

(b) Individual orders or successive non-competitive interagency orders for the same requirement with the same servicing agency shall not exceed five years.

(c) Requests for deviation from the five year limitation in paragraph (b) of this section shall require the approval of the Center Director if the estimated value of the order is \$5 million or less, or the Assistant Administrator for Procurement (Program Operations Division) if the estimated value of the order exceeds \$5 million. Requests for deviation shall address:

- (1) Why more than five years is required;
- (2) Why the work must be performed by the same servicing agency; and
- (3) How long beyond the current order the requirement is expected to continue.

1817.7002 Determinations and findings requirements.

(a) Interagency acquisitions shall be supported by a Determination and Finding (D&F) equivalent to that required for Economy Act acquisitions (see FAR 17.503). This requirement applies to all purchases of goods or services under contracts entered into or administered by agencies other than NASA including the Military Departments and Civilian Agencies. The Space Act shall be cited as authority for all NASA interagency acquisitions except that the Inspector General Act shall be cited as the authority for interagency acquisitions for the NASA Office of Inspector General.

(b) To satisfy the D&F requirement identified in FAR 17.503(a)(2), current market prices, recent acquisition prices, or prices obtained by informational submissions as provided in FAR 15.201 may be used to ascertain whether the acquisition can be accomplished more economically from commercial sources.

(c) In addition to the requirements in FAR 17.503, the D&F must identify the period of performance and whether the acquisition is a non-competitive follow-on for the same services from the same servicing agency. (See 1817.7001(b).)

(d) A D&F is required for each individual contract action (see FAR 1.702) and any increase permitted by options (see FAR 17.2).

(e) The determination described in paragraph (a) of this section is not required for contracts awarded under the Space Act to Government agencies pursuant to a Broad Agency Announcement when a review of the acquisition records would make it obvious that the award is not being used as a method of circumventing regulatory or statutory requirements, particularly FAR Part 6, Competition Requirements (e.g., when a significant number and value of awards made under the BAA are made to entities other than Government agencies).

(f) All D&Fs for a servicing agency not covered by the FAR shall be approved by the Assistant Administrator for Procurement.

(g) Each D&F, including class D&Fs shall be reviewed by legal (see NFS 1801.770).

1817.7003 Ordering procedures.

To satisfy the ordering procedures in FAR 17.504(b)(4), all payment provisions shall require the servicing agency or department to submit a final voucher, invoice, or other appropriate payment document within six months after the completion date of the order. A different period may be specified by mutual agreement if six months is not sufficient.

1817.7004 Acquisitions with Military Departments

This section contains policies and procedures, developed jointly by NASA and DOD, for acquisition of supplies or services by NASA from or through the Military Departments.

1817.7004-1 Authorization and policy.

(a) NASA is authorized by the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473 et seq.) to use the acquisition services, personnel, equipment, and facilities of the Military Departments, with their consent and with or without reimbursement, and, on a similar basis, to cooperate with the Military Departments in the use of acquisition services, equipment, and facilities.

(b) The Military Departments have agreed to cooperate fully with NASA in making their acquisition services, equipment, personnel, and facilities available on the basis of mutual agreement.

(c) The Military Departments have agreed not to claim reimbursement for administrative costs incident to acquisitions for NASA, except as may be otherwise agreed before the services are performed.

(d) When procuring supplies or services for NASA or performing field service functions in support of NASA contracts, the Military Departments have agreed to use their own methods, except when otherwise required by the terms of the agreement involved.

(e) The Military Departments normally will use their own funds when procuring supplies or services or performing services for NASA, and will not cite NASA funds on any Defense obligation or payment document.

1817.7004-2 NASA-Interagency Purchase Request and acceptance.

(a) The NASA-Interagency Purchase Request (NASA Form 523) shall be used by NASA contracting offices for requesting acquisition of supplies or services from all activities of the Military Departments. Individual NASA-Interagency Purchase Requests shall be prepared in accordance with the instructions on the reverse of NASA Form 523 and shall be numbered in accordance with Subpart 1804.71. The form shall not be used for requesting --

(1) Block transfers of excess property between NASA and the Military Departments;

(2) Performance by the Military Departments of field service functions related to NASA contracts; or

(3) Items that the Military Departments normally purchase and stock for military use or in-house services, except when a DOD activity is willing to accept the form for these purposes. Supplies and services of this nature may be requisitioned using appropriate DOD forms when they are provided by and are acceptable to or preferred by the Military Department supplying activity or as otherwise mutually agreed upon by the parties.

(b) Include a provision in accordance with 1817.7003.

(c) To obtain materials from the Air Force Missile Procurement Fund, the contracting officer shall follow the procedures of 1808.003-72.

1817.7004-3 Acceptance by Military Department.

(a) Except as provided in paragraph (c) of this section, the Military Department concerned will, within 30 days after receipt of a NASA-Interagency Purchase Request, forward to the initiator of the request an Acceptance of MIPR, DD Form 448-2. Each DD Form 448-2 will show the action being taken to fill the requirement and the name and complete address of the DOD contracting activity.

(b) To the extent feasible, all documents (including acceptances, contracts, correspondence, shipping documents, work or project orders, and Standard Form 1080 (Voucher for Transfer between Appropriations and/or Funds) billings) will reference the NASA-Interagency Purchase Request number and the item number.

(c) Acceptance by the Military Department is not required for NASA-Interagency Purchase Requests covering deliveries of common-use standard-stock items that the supplying agency has on hand or on order for prompt delivery at published prices.

1817.7004-4 Changes in estimated total prices.

When a Military Department determines that the estimated total price (Block 7, NASA Form 523) of the items to be acquired for NASA is not sufficient to cover the required reimbursement or is in excess of the amount required, a request for an amendment will be forwarded to the NASA originating office. The request will indicate a specific dollar amount, rather than a percentage, and will include justification for any upward adjustment requested. Upon approval of the request, the Cognizant NASA contracting office shall forward to the DOD contracting activity an amendment to the NASA-Interagency Purchase Request.

1817.7004-5 Payments.

Except when agreements provide that reimbursement is not required, payments to the Military Departments shall be made by NASA office designated in block 9 of the NASA-Interagency Purchase Request upon receipt of Standard Form 1080. Billings will be supported in the same manner as billings between Military Departments.

1817.7004-6 Contract clause.

The contracting officer shall insert the clause at 1852.217-70, Property Administration and Reporting, in any NASA-Interagency Purchase Request when property will be involved.

1817.7005 Acquisitions with Civilian Agencies

This section contains policies and procedures for the acquisition of supplies or services by NASA from or through Civilian Agencies.

1817.7005-1 Authorization and policy.

NASA is authorized by the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473 et seq.) to acquire supplies or services of Civilian Agencies, with their consent and with or without reimbursement on the basis of mutual agreement with Civilian Agencies. Contracting Officer shall complete and execute a Determination and Finding (D&F) before placing an order for supplies or services with another Government agency in accordance with NFS 1817.70.

1817.7005-2 NASA-Interagency Purchase Request (NF-523) and Acceptance.

(a) The NASA-Interagency Purchase Request (NF-523) shall be used by all NASA Contracting Offices for requesting acquisition of supplies or services from all activities of Civilian Agencies under the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473 et seq.). Individual NF-523's shall be prepared in accordance with the instructions contained in the NF-523 and shall be numbered in accordance with Subpart NFS 1804.71.

(b) Include a provision for ordering procedures in accordance with 1817.7003.

(c) Include a provision for acceptance by Civilian Agencies, such as: the servicing agency shall provide acceptance of this order no later than 30 days after receipt of the order. The acceptance shall be sent to: Insert NASA installation, office code, and address. The acceptance shall cite the order number and have a typed name, title, and signature of the accepting official, including address, phone number, email address, and facsimile number.

(d) Include a provision and instructions for submission of invoices/billing and payments to be made by Civilian Agencies. Identify the address of the Agency location for the servicing agency to submit invoices to, provide detailed instructions for transmitting the funds, and whether the servicing agency shall submit invoices via the online Intra-Governmental Payment and Collection (IPAC) System or SF1080/SF1081 or equivalent form to be utilized. Information about IPAC is available at <http://fms.treas.gov/goals/ipac/index.html>.

(e) Include provisions for contract administration, property accountability, and reporting requirements (if property is provided to the Civilian servicing agency or will be acquired and requires reporting). Complete contract administration requirements and contract audit responsibilities appropriate for the type of contract and scope of work on all interagency orders. The requiring activity should also provide provisions for any special contract terms or other applicable requirements for funding. This includes information such as special funds tracking and reporting requirements, additional contract administration requirements, special delivery or packaging instructions, a copy of the executed determination, and any other supporting documents;

(f) Include a provision for data rights, patent rights, and reportable new technology, if applicable;

(g) Identify the technical representative and identify roles, responsibilities, and limitations;

(h) Identify the scope of work/deliverables. Include a complete description of the supply or service to be delivered and include reference to any proposal received from the servicing civilian agency;

(i) Cite the Authority. Cite the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473 et seq.) as the authority unless the order is for the NASA Office of Inspector General (See NFS 1817.7001);

(j) Amount of the Order. Include funding (incremental or fully-funded) amount and accounting and appropriation data (i.e. procurement request number).

1817.7005-3 Contract clause.

The contracting officer shall insert the clause at 1852.217-70, Property Administration and Reporting, in any NASA-Interagency Purchase Request when property will be involved.

Subpart 1817.71--Exchange or Sale of Personal Property

1817.7101 Policy.

(a) Section 201(c) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 384, as amended (40 U.S.C. 481(c)), authorizes the exchange or sale of Government personal property and the application of the exchange allowance or proceeds from sale to the acquisition of similar property for replacement purposes. The transaction must be evidenced in writing.

(b) NASA installations and contractors are authorized to conduct exchange/sale transactions as long as the requirements and restrictions of NPR 4300.1 and the Federal Property Management Regulations, Subchapter H, part 101-46, are followed. In conducting such exchanges/sales, NASA contractors must obtain the contracting officer's prior written approval and must report the transactions to the cognizant NASA installation Property Disposal Officer (PDO).

Subpart 1817.73--Phased Acquisition

1817.7300 Definitions.

(a) **Down-selection.** In a phased acquisition, the process of selecting contractors for later phases from among the preceding phase contractors.

(b) **Phased Acquisition.** An incremental acquisition implementation comprised of several distinct phases where the realization of program/project objectives requires a planned, sequential acquisition of each phase. The phases may be acquired separately, in combination, or through a down-selection strategy.

(c) **Progressive Competition.** A type of down-selection strategy for a phased acquisition. In this method, a single solicitation is issued for all phases of the program. The initial phase contracts are awarded, and the contractors for subsequent phases are expected to be chosen through a down-selection from among the preceding phase contractors. In each phase, progressively fewer contracts are awarded until a single contractor is chosen for the final phase. Normally, all down-selections are accomplished without issuance of a new, formal solicitation.

1817.7301 Down-selections in phased acquisitions.

1817.7301-1 Pre-solicitation planning.

(a) The rationale for the use of the down-selection technique shall be thoroughly justified in the acquisition planning requirement. Because the initial phase solicitation will also lead to subsequent phase award(s), the decision to use a down-selection strategy must be made prior to release of the initial solicitation. Accordingly, all phases must be addressed in the initial acquisition strategy planning and documented in the acquisition plan or PSM minutes.

(b) If there is no direct link between successful performance in the preceding phase and successful performance in a subsequent phase, down-selection is inappropriate. In this case, the phases should be contracted for separately without a down-selection.

(c) With one exception, both the initial and subsequent phase(s) of an acquisition down-selection process are considered to be full and open competition if the procedures in 1817.7301-4 and 1817.7301-5 (if using the progressive competition technique) are followed. If only one contractor successfully completed a given phase and no other offers are solicited for the subsequent phase, award of the subsequent phase may be made only if justified by one of the exceptions in FAR 6.302 or one of the exclusions in FAR 6.2, and only after compliance with the synopsis requirements of FAR 5.202 and 5.205 and 1804.570-2.

1817.7301-2 Evaluation factors.

A separate set of evaluation factors must be developed for each phase in a down-selection competition. Since these competitive down-selection strategies anticipate that a preceding phase contractor will be the subsequent phase contractor, the evaluation factors for initial phase award must specifically include evaluation of the offerors' abilities to perform all phases.

1817.7301-3 Down-selection milestones.

(a) When sufficient programmatic and technical information is available to all potential offerors, proposal evaluation and source selection activities need not be delayed until completion of a given phase. These activities should commence as early as practicable. The initial phase contracts should be structured to allow for down-selection at a discrete performance milestone (e.g., a significant design review or contract completion) of a design maturity sufficient to allow for an informed selection decision. This will avoid time gaps between phases and eliminate unnecessary duplication of effort.

(b) The appropriate contract structure must reflect program technical objectives as well as schedule considerations. For example, if a two-phased acquisition strategy calls for formal completion of initial phase effort at Preliminary Design Review (PDR), but it is not financially practical or technically necessary for subsequent phase award and performance to carry all initial phase contractors through PDR, the initial phase contracts should be structured with a basic period of performance through a significant, discrete milestone before PDR with a priced option for effort from that milestone to PDR. The down-selection would occur at the earlier milestone, the PDR option exercised only for the down-selection winner, and the subsequent phase performance begun at the completion of the PDR option.

1817.7301-4 Synopsis.

(a) Each phase of a phased acquisition not performed in-house must be synopsized in accordance with FAR 5.201 and must include all the information required by FAR 5.207. Time gaps between phases should be minimized by early synopsis of subsequent phase competition. The synopsis for the initial competitive phase should also state the following:

(1) The Government plans to conduct a phased acquisition involving a competitive down-selection process. (Include a description of the process and the phases involved).

(2) Competitions for identified subsequent phases will build on the results of previous phases.

(3) The award criteria for subsequent phases will include demonstrated completion of specified previous phase requirements.

(4) The Government expects that only the initial phase contractors will be capable of successfully competing for the subsequent phase(s). Proposals for the subsequent phase(s) will be requested from these contractors.

(5) The Government intends to issue (or not issue) a new, formal solicitation(s) for subsequent phase(s). If new solicitations are not planned, the acquisition must be identified as a

"progressive competition" (see 1817.7301-5), and the mechanism for providing pertinent subsequent phase proposal information (e.g., statements of work, specifications, proposal preparation instructions, and evaluation factors for award) must be described.

(6) Each subsequent phase of the acquisition will be synopsized in accordance with FAR 5.201 and 5.203.

(7) Notwithstanding the expectation that only the initial phase contractors will be capable of successfully competing for the subsequent phase(s), proposals from all responsible sources submitted by the specified due date will be considered. In order to contend for subsequent phase awards, however, such prospective offerors must demonstrate a design maturity equivalent to that of the prior phase contractors. Failure to fully and completely demonstrate the appropriate level of design maturity may render the proposal unacceptable with no further consideration for contract award.

(b) In addition to the information in paragraph (a) of this section, the synopsis for the subsequent phase(s) must identify the current phase contractors.

1817.7301-5 Progressive competition.

(a) To streamline the acquisition process, the preferred approach for NASA phased acquisitions is the "progressive competition" down-selection technique in which new, formal solicitations are not issued for phases subsequent to the initial phase. Subsequent phase proposals are requested by less formal means, normally by a letter accompanied by the appropriate proposal preparation and evaluation information.

(b) When using the progressive competition technique, if a prospective offeror other than one of the preceding phase contractors responds to the synopsis for a subsequent phase and indicates an intention to submit a proposal, the contracting officer shall provide to that offeror all the material furnished to the preceding phase contractors necessary to submit a proposal. This information includes the preceding phase solicitation, contracts, and system performance and design requirements, as well as all proposal preparation instructions and evaluation factors. In addition, the prospective offeror must be advised of all requirements necessary for demonstration of a design maturity equivalent to that of the preceding phase contractors.

(c) A key feature of the progressive competition technique is that a formal solicitation is normally not required. However, when the Government requirements or evaluation procedures change so significantly after release of the initial phase solicitation that a substantial portion of the information provided in the initial phase synopsis, solicitation, or contracts is no longer valid, a new solicitation shall be issued for the next phase.

(d) Subsequent phase proposals should be requested by a letter including the following:

(1) A specified due date for the proposals along with a statement that the late proposal information in paragraph (c)(3) of FAR 52.215-1, Instructions to Offerors -- Competitive Acquisition, applies to the due date.

(2) Complete instructions for proposal preparation, including page limitations, if any.

(3) Final evaluation factors.

(4) Any statement of work, specifications, or other contract requirements that have changed since the initial solicitation.

(5) All required clause changes applicable to new work effective since the preceding phase award.

(6) Any representations or certifications, if required.

(7) Any other required contract updates (e.g., small and small disadvantaged business goals).

(e) Certain factors may clearly dictate that the progressive competition technique should not be used. For example, if it is likely that NASA may introduce a design concept independent of those explored by the preceding phase contractors, it is also likely that a new, formal solicitation is

necessary for the subsequent phase and all potential offerors should be solicited. In this circumstance, progressive competition is inappropriate.

1817.7302 Contract clauses.

(a) The contracting officer shall insert the clause at 1852.217-71, Phased Acquisition Using Down-Selection Procedures, in solicitations and contracts for phased acquisitions using down-selection procedures other than the progressive competition technique. The clause may be modified as appropriate if the acquisition has more than two phases. The clause shall be included in the solicitation for each phase and in all contracts except that for the final phase.

(b) The contracting officer shall insert the clause at 1852.217-72, Phased Acquisition Using Progressive Competition Down-Selection Procedures, in solicitations and contracts for phased acquisitions using the progressive competition technique. The clause may be modified as appropriate if the acquisition has more than two phases. The clause shall be included in the initial phase solicitation and all contracts except that for the final phase.